

ARTICLE APPEARED
ON PAGE **A-10**

NEW YORK TIMES
10 APRIL 1982

On the Intelligence Bill's Tight

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Special to The New York Times

WASHINGTON, April 9 — Since Senator John H. Chafee seldom votes with Senate conservatives, his colleagues were surprised when the Rhode Island Republican became the chief author of a bill strongly supported by conservatives. That measure, which would make it a crime to identify an undercover intelligence agent, has stirred up one of the most thought-provoking debates of the current legislative session.

The legislation has been passed by both chambers of Congress, and after differences are ironed out in conference, Presidential approval is virtually certain. But opponents of the bill think it is an unconstitutional invasion of freedom of the press, and they will move immediately to test it in court.

"It is an outrage," asserted Anthony Day, editor of the editorial pages of The Los Angeles Times. "I do not think the Constitution permits punishment for publication of that sort of information."

In Mr. Chafee's view, he is balancing the value of a free press against the need for effective intelligence, and he does not believe that any First Amendment rights are absolute. "They say my bill will inhibit the press, and that's true," the 59-year-old lawmaker said in a recent interview. "But the press accepts inhibitions in wartime. No one argues with that. No one says the press has a right to reveal the sailing of a troop ship, for instance. I don't want to equate this situation with war, but intelligence is a dangerous business."

An Essential Business

It is also, in Mr. Chafee's view, an essential business. "I'm appreciative of intelligence activity," said the Senator, the second-ranking Republican on the Intelligence Committee. "I want them to be good. They're a very important part of our overall national defense."

Defending the Central Intelligence Agency has not been a popular thing to do in recent years, and Mr. Chafee concedes that the agency has been known as a "rogue elephant," out of control and trampling on the rights of citizens. But he thinks that the success of his bill reflects a growing recognition that "intelligence is a very valuable tool in peacetime."

The key fight in the agents' identity bill has centered on the definition of the crime. Liberals argue that publishing names should only be barred if a person intended to harm the interests of the United States. Mr. Chafee's amendment, which was passed by a vote of 57 to 37, states that the act is



The New York Times/George Thomas

Senator John H. Chafee

traordinarily broad and vague," in the words of Mr. Day, former chairman of the Committee on Freedom of Information for the American Society of Newspaper Editors. As a result, they fear it will have a "chilling effect" on the efforts of legitimate journalists to cover intelligence activities.

Rights of the Press

Mr. Day acknowledges that public sentiment probably favors the bill, but unlike Senator Chafee, he feels that the rights of the press are almost absolute. "This is messy," Mr. Day observed, "the worst possible case for us to make in the public mind. But it absolutely has to be made."

Senator Joseph R. Biden Jr. of Delaware, ranking Democrat on the Intelligence Committee, believes the bill reflects a resurgence of Cold War attitudes. "I really do think," he said, "that there is a whole attitude out there that says, 'In order to compete with the Soviet Union and protect our interests, we have to write off civil liberties.'"

Senator Patrick J. Leahy of Vermont, another Democrat on the Intelligence Committee, adds: "This Administration seems to start from the premise, 'How much can we hide?' I start from the premise, 'How can we protect the First Amendment?'"

Like many of his colleagues, Senator Leahy is a bit puzzled that Senator Chafee, who normally lines up with Senate liberals, pushed his bill so hard. "He got sold a bill of goods by the Administration," Senator Leahy said of Senator Chafee.

But that comment ignores the character and the experience of Rhode Island's junior Senator. In 1942, Mr. Chafee left Yale without his degree, joined the Marines, and landed with the first invasion forces on Guadalca-

He received his undergraduate degree in 1947, at a time when Government service was considered a noble career by many young veterans. He kept his interest up through law school, the state legislature and the Rhode Island governorship, and after his defeat for re-election in 1963, President Nixon appointed him Secretary of the Navy. One of his aides in that job was Stansfield Turner, later head of the C.I.A. under President Carter and a strong influence on the Senator.

When the Issues First Arise

After coming to the Senate in 1977, Mr. Chafee asked to join the Intelligence Committee. About the same time, a former C.I.A. agent named Phillip Agee was making a career out of publishing the names of his former colleagues, and when Senator Chafee traveled abroad and talked to intelligence agency officers, he was deluged with complaints.

Mr. Chafee said they had "constantly" raised the question: "How can America let this happen?"

The Senator was particularly alarmed by the murder of the C.I.A. chief in Athens and an attack on a young agency officer in Jamaica. But still, the lawmaker does not believe that the agency should be given "free rein," and he endorses effective Congressional oversight. "We have a tremendous responsibility; the success of the agency is dependent to a great degree on how we do our jobs," he said. "If we don't truly have oversight, something will go terribly wrong, and the agency will suffer."

Critics contend that this oversight effort is not functioning well today, and they blame the Reagan Administration. "We're just not getting the information," said Senator Leahy. "We read things in the paper before we read them in the committee."

Problem of Oversight

Mr. Chafee agrees, at least in part. He says that William J. Casey, the Director of Central Intelligence, has "made mistakes," and adds, "It is no secret that Bill Casey is not famous for crisp answers."

As Senator Chafee performs his delicate balancing act between two important principles, he often glances over his shoulder at the shade of his late uncle, Zechariah Chafee, long a professor at Harvard Law School and a leading authority on the First Amendment. The Senator likes to quote "Uncle Zack" to the effect that First Amendment rights can be abridged in cases where "the public safety is really imperiled."

But when he was asked if that definition fit the current situation, if his uncle would have approved of his bill,